

U.S. Patent Application Serial No.: **10/541,746**

Response filed June 28, 2011

Reply to OA dated March 30, 2011

**REMARKS**

Claims 1, 2, 4, 6, 8-10, 16-19 and 21-37 are pending in this application. No amendment is made in this Response. It is believed that this Response is fully responsive to the Office Action dated **March 30, 2011**.

**Claims 1-2, 4, 9-10, and 16-18 are rejected under 35 U.S.C. §102(a) as being anticipated by Watanabe et al. (US 2003/0125500).** (Office action p. 2)

**Claims 1-2, 4, 9-10, and 16-18 are rejected under 35 U.S.C. §102(e) as being anticipated by Watanabe et al. (US 2003/0125500).** (Office action p. 4)

The rejection is overcome by the removal herein of Watanabe et al. US 2003/0125500 as prior art, based on the attached Declaration under 37 CFR 1.132.

The present application is a 371 National stage application of PCT/JP04/00071, filed on January 8, 2004, which is the effective filing date of the present application. Watanabe '500 was filed on October 31, 2002, and published on July 3, 2003. Therefore, Watanabe '500 is prior art both under 35 U.S.C. 102(a) and 102(e), as the Examiner has indicated. Watanabe '500 is not prior art under 35 U.S.C. 102(b).

The Examiner correctly notes that there is overlapping inventorship between the present application and Watanabe '500, with Tsuyoshi WATANABE an inventor of both the reference and the present application. In accordance with MPEP 715.01(a), Mr. WATANABE has prepared a Declaration under 37 CFR 1.132 asserting that he invented the subject matter disclosed in the Watanabe '500 publication and relied on in the rejection. The present rejections are therefore overcome by the attached Declaration under 37 CFR 1.132.

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**Claims 6 and 8 are rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe et al. (US 2003/0125500), as applied to claim 1 above.** (Office action p. 6)

**Claims 19, 21-26, 33-35 are rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe et al. (US 2003/0125500).** (Office action p. 6)

**Claim 27 is rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe et al. (US 2003/0125500), as applied to claim 26 above, and further in view of Valint, JR. et al. (US 2002/0102415).** (Office action p. 9)

**Claim 28 is rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe et al. (US 2003/0125500), as applied to claim 26 above, and further in view of Hayashi et al. (US 6,503,632).** (Office action p. 9)

**Claims 29-30 are rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe et al. (US 2003/0125500), as applied to claim 26 above, and further in view of Walther et al. (US 6,379,004).** (Office action p. 10)

**Claims 31-35 are rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe et al. (US 2003/0125500), as applied to claim 26 above, and further in view of Turek et al. (US 2002/0137811).** (Office action p. 11)

**Claim 36 is rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe et al. (US 2003/0125500), as applied to claim 26 above, and further in view of Niwa et al. (US 5,516,467).** (Office action p. 12)

**Claim 37 is rejected under 35 U.S.C. §103(a) as being unpatentable over Watanabe et al. (US 2003/0125500).** (Office action p. 13)

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These rejections under 35 U.S.C. 103(a) are overcome by the removal herein of Watanabe et al. US 2003/0125500 as prior art, based on the attached Declaration under 37 CFR 1.132.

As noted above, Watanabe '500 is prior art only under 35 U.S.C. 102(a) and 35 U.S.C. 102(e), and Applicant has attached a Declaration under 37 CFR 1.132 by Mr. WATANABE asserting that he invented the subject matter disclosed in the Watanabe '500 publication and relied on in these rejections. The Watanabe '500 reference is therefore removed as prior art for these rejections.

Applicant submits that the pending claims are not obvious over any of Valint, JR., Hayashi et al., Walther et al., Turek et al., or Niwa et al. Since the Watanabe '500 reference has been removed as prior art, the rejections under 35 U.S.C. 103(a) are overcome by the attached Declaration under 37 CFR 1.132.

**Statement regarding common ownership in accordance with MPEP 706.02(l)(2)**

In addition to the above remarks, Applicant notes that the Watanabe '500 reference and the present application are commonly owned. In accordance with MPEP 706.02(l)(2), Applicant makes the following statement:

"The present application (USSN 10/541,746) and USSN 10/284,112 (published as US 2003/0125500) were, at the time of the invention of the present application, owned by Menicon Co., Ltd."

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**Perfection of claim for foreign priority**

To perfect the claim for foreign priority, Applicant has attached a verified translation of Japanese Patent Application No. 2003-004951, the priority document for this application.

If, for any reason, it is felt that this application is not now in condition for allowance, the Examiner is requested to contact the applicants' undersigned agent at the telephone number indicated below to arrange for an interview to expedite the disposition of this case.

In the event that this paper is not timely filed, the applicants respectfully petition for an appropriate extension of time. Please charge any fees for such an extension of time and any other fees which may be due with respect to this paper, to Deposit Account No. 01-2340.

Respectfully submitted,

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PATENT & TRADEMARK OFFICE

Enclosures: Declaration under 37 CFR 1.132 signed by Mr. Tsuyoshi Watanabe on June 8, 2011  
Verified Translation of Priority Document No. JP 2003-004951